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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,305	08/16/2001	Krishna Kishore Yellepeddy	AUS920010442	3146
7590	06/10/2004			EXAMINER
Darcell Walker 8107 Carvel Lane Houston, TX 77036			KOSOWSKI, ALEXANDER J	
			ART UNIT	PAPER NUMBER
			2125	
			DATE MAILED: 06/10/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/931,305	YELLEPEDDY ET AL.
	Examiner	Art Unit
	Alexander J Kosowski	2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 March 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-7,17-20,22,23 and 31-37 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-7,17-20,22,23 and 31-37 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

1) Claims 1-7, 17-20, 22-23, and 31-37 are presented for examination in light of the amendment filed 3/23/04. All other claims have been canceled or withdrawn in response to the previous restriction requirement.

Claim Objections

2) The objection to claim 3 from the last office action is withdrawn in light of the amendment filed 3/23/04.

Claim Rejections - 35 USC § 112

3) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4) Regarding claim 23, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Please note that although claim 23 has been amended, it still uses this terminology, and therefore the claim is still rendered indefinite.

Claim Rejections - 35 USC § 103

5) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6) Claims 1-7, 17-20, 22-23 and 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ehlers et al (U.S. Pat 5,924,486), further in view of Johnson et al (U.S. Pat 6,598,029).

Referring to claim 1, Ehlers teaches a method for optimizing energy consumption and energy cost at an end-user facility comprising the steps of gathering information about energy consumption requirements of an end-user (col. 3 lines 25-36), retrieving information on the availability of energy supplied by energy suppliers to end-users (col. 7 lines 53-55 and col. 9 lines 35-49), compiling a list of energy usage options, for energy consumption of a particular device within a particular time period, based on energy consumption requirements and energy availability (col. 7 lines 53-58), said energy use options including energy supply entities and end-users that generate energy (col. 11 lines 38-47), selecting the energy use option from the compiled list that provides the optimal energy use for a particular device (col. 11 lines 38-47), and implementing the selected energy use option at the end-user facility (col. 4 lines 6-10). However, Ehlers does not explicitly teach retrieving information on the quantity of energy available by energy suppliers to end-users, nor that the list of energy usage options is compiled based on quantity of energy available.

Johnson teaches that an end user (col. 11 lines 33-36) may access information regarding quantity of energy available by energy suppliers to end-users (col. 12 lines 8-18).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to retrieve information on the quantity of energy available by energy suppliers to end-users and to compile a list of energy usage options based on this in the invention taught by Ehlers since allowing end-users to access energy availability information stimulates competition between providers and facilitates the consumer's ability to make economic choices between providers (Johnson, col. 6 lines 3-7), and since the energy unit price schedules as taught by

Ehlers in col. 9 lines 53-55 would be directly related to quantities of energy available by an energy supplier.

Referring to claim 2, Ehlers teaches determining the number of devices of the user that require the consumption of energy in order to operate (col. 3 lines 25-30).

Referring to claim 3, Ehlers teaches gathering information on each device of the user, such information comprising the amount of time the device will be operating, the preferred time of day for operating the device, the types of energy required by the device and the amount of energy typically used by the device in standard operations (col. 3 lines 30-36 and col. 9 line 66 through col. 10 line 13).

Referring to claim 4, Ehlers teaches a method for optimizing energy consumption and energy cost at an end-user facility comprising the steps of gathering information about energy consumption requirements of an end-user (col. 3 lines 25-36), retrieving information on the availability of energy supplied by energy suppliers to end-users (col. 7 lines 53-55 and col. 9 lines 35-49) comprising the types of energy provided and the price of the energy of the particular time range (col. 9 lines 35-49 and col. 11 lines 38-47), compiling a list of energy usage options, for energy consumption of a particular device within a particular time period, based on energy consumption requirements and energy availability (col. 7 lines 53-58), said energy use options including energy supply entities and end-users that generate energy (col. 11 lines 38-47), and selecting the energy use option from the compiled list that provides the optimal energy use for a particular device (col. 11 lines 38-47). However, Ehlers does not explicitly teach retrieving information comprising the amount of energy available over a particular time range.

Johnson teaches that an end user (col. 11 lines 33-36) may access information regarding quantity of energy available by energy suppliers to end-users over a particular time range (col. 12 lines 8-18).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to retrieve information on the quantity of energy available by energy suppliers to end-users over a particular time range in the invention taught by Ehlers since allowing end-users to access energy availability information stimulates competition between providers and facilitates the consumer's ability to make economic choices between providers (Johnson, col. 6 lines 3-7), and since the energy unit price schedules as taught by Ehlers in col. 9 lines 53-55 would be directly related to quantities of energy available by an energy supplier over specific time periods.

Referring to claim 5, Ehlers teaches creating, from energy consumption requirements information, an energy consumption policy for each device that will consume energy (col. 3 lines 25-30), creating an energy availability profile from the information retrieved on each energy source (col. 9 lines 35-49), comparing the energy requirements of a device for which energy is desired with the available energy from the energy resources and generating a list of optimal energy resources based on said comparisons (col. 7 lines 53-58 and col. 11 lines 38-47).

Referring to claim 6, Ehlers teaches the selection of an energy resource is based on the amounts of energy required by a device for operation (col. 11 lines 38-65). However, Ehlers does not explicitly teach the selection of an energy resource based on a match between the amounts of energy required by a device for operation and the quantity of energy available from each of the energy suppliers during a particular time range.

Johnson teaches that an end user (col. 11 lines 33-36) may access information regarding quantity of energy available by energy suppliers to end-users over a particular time range (col. 12 lines 8-18) and that decisions to buy the energy are determined based on the available energy (col. 12 lines 39-42).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to retrieve information on the quantity of energy available by energy suppliers to end-users over a particular time range in the invention taught by Ehlers since allowing end-users to access energy availability information stimulates competition between providers and facilitates the consumer's ability to make economic choices between providers (Johnson, col. 6 lines 3-7), and since the energy unit price schedules as taught by Ehlers in col. 9 lines 53-55 would be directly related to quantities of energy available by an energy supplier over specific time periods.

Referring to claim 7, Ehlers teaches that the selection and implementation steps are automatically performed based on established end-user energy consumption policies (col. 11 lines 38-47).

Referring to claim 17, Ehlers teaches an end-user controller including an accounting program and a memory operatively connected to said accounting program, said controller capable of identifying energy usage options (col. 7 lines 11-35 and col. 8 lines 49-54), a terminal, adapted to enable an end-user to communicate with said controller for the purpose of transmitting information about appliance operating requirements to said accounting program (col. 9 lines 19-34), an energy information storage facility for storing and maintaining information about available energy sources for the end-user (col. 10 lines 45-65), the maintained information including types of energy available and price of energy from each energy supplier

(col. 9 lines 35-49 and col. 11 lines 38-47), a decision-making entity that automatically selects and implements an optimal energy option, the selection and implementation being based on an established end-user energy consumption policy (col. 11 lines 38-47), and a communication network that enables communication between said end-user controller and said energy information storage facility (col. 11 lines 1-6). However, Ehlers does not explicitly teach that the maintained information includes quantity of energy available from each energy supplier.

Johnson teaches that an end user (col. 11 lines 33-36) may access information regarding quantity of energy available by energy suppliers to end-users (col. 12 lines 8-18).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to retrieve information on the quantity of energy available by energy suppliers to end-users in the invention taught by Ehlers since allowing end-users to access energy availability information stimulates competition between providers and facilitates the consumer's ability to make economic choices between providers (Johnson, col. 6 lines 3-7), and since the energy unit price schedules as taught by Ehlers in col. 9 lines 53-55 would be directly related to quantities of energy available by an energy supplier over specific time periods.

Referring to claim 18, Ehlers teaches that said end-user controller is adapted to retrieve from said storage facility information about energy options (col. 10 lines 45-50).

Referring to claim 19, Ehlers teaches that said decision-making entity is contained in said end-user controller (col. 11 lines 8-11).

Referring to claim 20, Ehlers teaches that said energy information storage facility is an energy accounting server (col. 11 lines 1-6, whereby the storage facility may be implemented as a server).

Referring to claim 22, Ehlers teaches the system above. In addition, Ehlers teaches that information about available energy supplies is stored in an accounting server (col. 10 line 33 through col. 11 line 6). However, Ehlers does not explicitly state that information for each energy supplier is arranged in a record containing fields with the types of information in each field.

It is noted that one skilled in the art would have arranged information in a record containing fields in the invention taught by Ehlers since records containing fields are a common and well known method of storing information in servers utilized by data processing systems.

Referring to claim 23, Ehlers teaches that said accounting server contains information about energy compensation options including fix prices (col. 9 lines 35-49).

Referring to claim 31, the claim varies from claim 1 in that it claims a computer program product in a computer readable medium rather than a method. The method of claim 1 could inherently be implemented as a computer program product in a computer readable medium. Therefore, referring to claim 31, see rejection of claim 1 above.

Referring to claim 32, see rejection of claim 2 above.

Referring to claim 33, see rejection of claim 3 above.

Referring to claim 34, the claim varies from claim 4 in that it claims a computer program product in a computer readable medium rather than a method. The method of claim 4 could inherently be implemented as a computer program product in a computer readable medium. Therefore, referring to claim 34, see rejection of claim 4 above.

Referring to claim 35, see rejection of claim 5 above.

Referring to claim 36, see rejection of claim 6 above.

Referring to claim 37, see rejection of claim 7 above.

Response to Arguments

7) All arguments are rendered moot in view of the new rejections above.

Conclusion

8) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander J Kosowski whose telephone number is 703-305-3958. The examiner can normally be reached on Monday through Friday, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 703-308-0538. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. In addition, the examiner's RightFAX number is 703-746-8370.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Alexander J. Kosowski
Patent Examiner
Art Unit 2125



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